

GUIDELINE F-4
(formerly 05-04)

**Procedures for Addressing Labour Disputes
Affecting Pollution Abatement**

Legislative Authority:

Environmental Protection Act, RSO 1990,
Section 6
Ontario Water Resources Act, Section 30

Responsible Director:

Assistant Deputy Minister, Regional Operations Division

Last Revision Date:

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SYNOPSIS

The primary purpose of this guideline is to prevent degradation of the natural environment when labour disputes interfere with municipal or industrial pollution abatement programs. This guideline is applicable in situations involving the construction or operation of municipal or industrial pollution abatement facilities.

1.0 Introduction

This document describes the guidelines and procedures to be followed by Ministry staff to avoid degradation of the environment when labour disputes interfere with municipal or industrial pollution abatement programs.

2.0 Municipal -- Operation of Water and Sewage Facilities

To ensure satisfactory operation of facilities during labour disputes, municipalities shall develop contingency plans which take into account assistance available from other municipalities.

3.0 Municipal -- Construction of Water and Sewage Facilities

Where delay in the construction of facilities due to labour disputes prove critical to the environment, the Ministry shall enforce its environmental legislation in cases where a municipality has not taken all reasonable steps to expedite construction.

4.0 Industrial -- Operation of Process and Pollution Abatement Facilities

4.1 Acceptable Emission Levels

When a company chooses to continue operations during a labour dispute, the Ministry shall require the control of emissions at normal levels.

4.2 Ministry Enforcement

When a company chooses to continue operations during a labour dispute, the Ministry shall do all things necessary, including the crossing of picket lines, to ensure compliance with environmental legislation.

5.0 Industrial -- Installation of Abatement Facilities

5.1 Installation Schedule

Installation of abatement facilities shall proceed according to schedule unless the Director is satisfied, on receipt of a report submitted by the company, that the company cannot reasonably overcome delays caused by the dispute.

5.2 Short-Term Extensions

Where such delay is inevitable, the Ministry may extend schedules on a day-to-day basis or make such other reasonable extensions as circumstances indicate, including amendments to Control Orders and other enforcement measures.

5.2.1 "force majeure"

In keeping with Section 5.2, new or amended Control Orders and similar documents shall include the following "force majeure" clause which is open for discussion at relevant public meetings:

"In the event any party to this Order is, in the opinion of the Director, rendered unable to perform or comply with any obligations herein because of:

- (a) natural phenomena of an exceptional, inevitable, or irresistible nature, or insurrections;
- (b) strikes, lock-outs or other industrial disturbances;
- (c) inability to obtain materials or equipment for reasons beyond the control of the company; or
- (d) any other cause, whether similar to or different from the foregoing, beyond the reasonable control of the parties,

The obligations hereof, as they are affected by (a), (b), (c) or (d) above, shall be adjusted in a manner defined by the Director. To obtain such an adjustment, the party shall notify the Director immediately of any of the above occurrences, providing details that demonstrate that no practical alternatives are feasible in order to meet the compliance dates in question."